

WESTERN DIVISION
No. 5:08-HC-2155-BR

Respondent.

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child molestation and sentenced to five years imprisonment. (Id.) At the evidentiary hearing, Riedel admitted that he groomed the girl for approximately two years and then molested her on multiple occasions for a period lasting at least six months. (See also Gov't Ex. 3 at 18-19.) The molestation included fondling, rubbing the child's vaginal area, cunnilingus, and fellatio, and Riedel testified that he was aroused to the point of ejaculation during the molestation. (See also Gov't Ex. 17 at 4.)

Riedel testified that during this same time period, he molested another female child by fondling her. (See also id. at 4-5; Gov't Ex. 3 at 3, 20.) The child was approximately seven years old. (Id.) Riedel also admitted that he caused a five-year-old boy and a four-year-old girl to take off their clothes and simulate sex. (See also Gov't Exs. 3 at 19; 8 ¶ 34; 12; 17 at 5.) On 26 February 1992, Riedel was convicted of vicarious sexual gratification and child molestation and sentenced to five years imprisonment to run concurrently with the aforementioned child molestation conviction. (Gov't Exs. 3 at 3; 8 ¶ 34; 12.)

While out on bond for these sex offenses, Riedel committed a burglary. (Gov't Ex. 8 ¶ 35.) On 26 February 1992, he was convicted of burglary and sentenced to ten years imprisonment to run consecutively to the terms of incarceration for the sex offenses referenced above. (Id.) Riedel's sentence was eventually modified, and he was ordered to serve a period of home confinement beginning on 20 December 1993. (Id. ¶ 33; Gov't Ex. 5 at 13.)

In June 1994, while on probation, Riedel exposed himself to two eight-year-old girls walking by his residence. (Gov't Exs. 3 at 20-21; 5 at 13; 8 ¶¶ 35, 41-42; 10.) As a result, his probation was revoked, and he was sentenced to two years imprisonment. (Gov't Exs. 3 at 21; 8 ¶ 35.) Although the criminal charges that were brought against Riedel in relation to this incident

were eventually dismissed (see, e.g., Gov't Ex. 3 at 21), Riedel admitted to this conduct at the evidentiary hearing. He also testified that he has had an extensive history of exposing himself, including many times when he exposed himself to unsuspecting females while they were driving. (See also Gov't Ex. 17 at 8.) He admitted that he was sexually aroused by his victims' shock at his behavior and that he masturbated following these acts of exposure. (Id.)

Riedel was released from prison on 1 November 1996. (Gov't Ex. 8 ¶ 35.) In 1999, he was found to be in possession of at least eighteen images of child pornography. (Id. ¶¶ 9-13; Gov't Exs. 3 at 22-24; 5 at 13.) At the evidentiary hearing, Riedel admitted downloading the pornography from the internet. He also testified that he looked at the pictures for a period of approximately six to seven months and that he would sometimes masturbate when he viewed the images.

Riedel pled guilty to possession of child pornography in federal court and was sentenced to fifty-nine months imprisonment to be followed by three years of supervised release. (Gov't Exs. 5 at 13; 7.) He was also convicted of possession of child pornography in Oklahoma state court and was sentenced to ten years imprisonment to run concurrently with his federal sentence. (Gov't Ex. 9.) Riedel completed the two-year Sex Offender Treatment Program at the Federal Correctional Institution in Butner, North Carolina ("FCI-Butner") from 2002 to 2004. (Gov't Exs. 5 at 8-10; 19.) In 2004, he was released from federal custody to serve the unexpired portion of his state sentence in Oklahoma. (Gov't Exs. 3 at 25; 5 at 13.) He was released from state custody on 12 April 2007, at which time he began his three-year term of supervised release under his federal sentence. (Gov't Exs. 3 at 25; 6 at 000308.)

Riedel's supervised release was revoked in April 2008 for accessing the internet at work

without his probation officer's permission. (Gov't Ex. 6 at 000019.) He was sentenced to seven months incarceration for violating his supervised release. (Id. at 000020.) At the time of the violation, Riedel's employer maintained that Riedel was looking at child pornography at work. (Id. at 000309.) At the evidentiary hearing, Riedel admitted that he accessed the internet at work, but he denied that he was viewing child pornography. (See also Resp. Ex. 1 at 40-41.)

On 23 October 2008, the government certified that Riedel was a sexually dangerous person pursuant to 18 U.S.C. § 4248. (DE # 1.) Riedel testified that he has not incurred any disciplinary infractions during his time in federal custody. (See also Resp. Ex. 1 at 33, 39, 41.)

II. DISCUSSION

The Adam Walsh Act provides for the civil commitment of "sexually dangerous person[s]." 18 U.S.C. § 4248. Under 18 U.S.C. § 4247(a)(5), a "sexually dangerous person" is one "who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others." A person is "sexually dangerous to others" if he "suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released." 18 U.S.C. § 4247(a)(6).

Under the Adam Walsh Act, the government has the burden of proving that Riedel is sexually dangerous by clear and convincing evidence. 18 U.S.C. § 4248(d). "The clear and convincing evidence standard is an 'intermediate standard,' lying somewhere 'between preponderance of the evidence and proof beyond a reasonable doubt.'" United States v. Hunt, 643 F. Supp. 2d 161, 179 (D. Mass. 2009) (quoting Addington v. Texas, 441 U.S. 418, 425 (1979)). The government must produce "[e]vidence indicating that the thing to be proved is

highly probable or reasonably certain.” Id. (alteration in original) (quoting Black’s Law Dictionary 596 (8th ed. 2004)).

Thus, in order to prove that Riedel is a “sexually dangerous person,” the government must prove three elements by clear and convincing evidence: (1) that Riedel engaged in or attempted to engage in sexually violent conduct or child molestation; (2) that Riedel suffers from a serious mental illness, abnormality, or disorder; and (3) that, as a result of the serious mental illness, abnormality, or disorder, Riedel would have serious difficulty in refraining from sexually violent conduct or child molestation if he were to be released. See 18 U.S.C. § 4247(a)(5)-(6); 18 U.S.C. § 4248.

Three experts testified at the evidentiary hearing. Harry Hoberman, Ph.D., and Dawn Graney, Psy.D., testified on behalf of the government. Richard Wollert, Ph.D., testified on behalf of Riedel as an additional examiner selected pursuant to 18 U.S.C. § 4247(b). (See DE # 42.) Other witnesses included Dr. Melanie Malterer and United States Probation Officer Jason Phillips, both of whom testified on behalf of the government. Riedel was also called as a witness during the government’s case-in-chief.

A. Past Violent Sexual Conduct or Child Molestation

The court finds that the first criterion for commitment under the Adam Walsh Act, that Riedel has “engaged or attempted to engage in sexually violent conduct or child molestation” in the past, is satisfied. 18 U.S.C. § 4247(a)(5). All three experts in this case agree that Riedel has committed acts of sexually violent conduct or child molestation, and Riedel does not dispute that the government has proven the first element. (Resp.’s Proposed Findings of Fact and Conclusions of Law, DE # 67, at 9 ¶ 35.)

B. Serious Mental Illness, Abnormality, or Disorder

To meet its burden of establishing that Riedel is “sexually dangerous to others,” the government must also prove that Riedel “suffers from a serious mental illness, abnormality, or disorder.” 18 U.S.C. § 4247(a)(6). In this case, there is significant disagreement among the experts regarding Riedel’s exact diagnosis. Dr. Graney has diagnosed Riedel with pedophilia, exhibitionism, and antisocial personality disorder. (Gov’t Ex. 5 at 20.) Dr. Hoberman has diagnosed Riedel with pedophilia, hebephilia, exhibitionism, paraphilia not otherwise specified (paraphilic coercive disorder), voyeurism, hypersexuality, cannabis dependence in remission in a structured environment, narcissistic personality disorder, dissocial personality disorder, psychopathy, and antisocial personality disorder. (Gov’t Ex. 3 at 4, 102-112.) Dr. Wollert has concluded that Riedel suffers only from exhibitionism in full or partial remission. (Resp. Ex. 1 at 27.)

The court first finds that Riedel suffers from exhibitionism,¹ as all three experts agree on this diagnosis. (See Gov’t Exs. 3 at 105; 5 at 21; Resp. Ex. 1 at 27.) However, both Dr. Hoberman and Dr. Wollert acknowledged at the evidentiary hearing that they do not consider Riedel’s exhibitionism to be a “serious” mental illness, abnormality, or disorder for the purposes of the Adam Walsh Act. The court agrees with the expert testimony and finds that Riedel’s exhibitionism does not constitute a serious mental illness, abnormality, or disorder under 18 U.S.C. § 4247(a)(6).

Next, the court considers whether the government has proven that Riedel suffers from pedophilia. The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text

¹ “The paraphilic focus in Exhibitionism involves the exposure of one’s genitals to a stranger.” Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision § 302.4 at 569.

Revision (“DSM-IV-TR”) lists the criteria of this disorder as follows:

- A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).
- B. The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty.
- C. The person is at least age 16 years and at least 5 years older than the child or children in Criterion A.

DSM-IV-TR § 302.2 at 572.

In this case, Riedel meets all three of the diagnostic criteria. As previously noted, Riedel admitted that he engaged in sexual contact with three children around the ages of four to seven when he was in his twenties. He molested one female victim on multiple occasions over a period of at least six months. He admitted that he began grooming the child at age four and that the sexual molestation included acts of fondling, cunnilingus, and fellatio. Riedel also abused a five-year-old boy when he had the child undress and simulate intercourse with the aforementioned female victim. Riedel also fondled the boy’s seven-year-old sister.

Furthermore, Riedel acknowledged that he exposed himself to two eight-year-old girls when he was in his thirties. He also testified that he began viewing child pornography around 1998 and that he masturbated to these images. Most importantly, the court finds that Riedel currently experiences sexual urges toward children. At the evidentiary hearing, Riedel attempted to deny having sexual urges toward children during both the government’s and his own attorney’s questioning of him. However, during the government’s examination, he admitted that he had “tendencies” toward such urges and that these tendencies will “probably not” go away. Dr. Hoberman also testified that Riedel acknowledged during their 13 December 2011 interview

that he experiences fantasies about children and that his deviant fantasies are something that will always have to be managed. (See also Gov't Ex. 3 at 103-04.)

In addition, both Dr. Hoberman and Dr. Graney testified at the evidentiary hearing that Riedel's pedophilia is "serious" for the purposes of the Adam Walsh Act, and the court credits their testimony with regard to this issue. It is clear that Riedel's pedophilic condition has caused significant impairment in many areas of his life and has also caused harm to others. As a result, the court concludes that the government has proven by clear and convincing evidence that Riedel suffers from pedophilia,² which is a serious mental illness, abnormality, or disorder.

The court also considers whether Riedel suffers from antisocial personality disorder. Both Dr. Hoberman and Dr. Graney have diagnosed Riedel with this disorder. As described in the DSM-IV-TR, antisocial personality disorder is characterized by a pervasive pattern of disregard for and violation of the rights of others occurring since age fifteen and indicated by at least three of seven criteria, including: (1) failure to conform to social norms with respect to lawful behaviors as indicated by repeatedly performing acts that are grounds for arrest; (2) deceitfulness, as indicated by repeated lying, use of aliases, or conning others for personal profit or pleasure; (3) impulsivity or failure to plan ahead; (4) irritability and aggressiveness, as indicated by repeated physical fights or assaults; (5) reckless disregard for the safety of self or others; (6) consistent irresponsibility, as indicated by repeated failure to sustain consistent work behavior or honor financial obligations; and (7) lack of remorse, as indicated by being indifferent to or rationalizing having hurt, mistreated, or stolen from another. DSM-IV-TR § 301.7 at 706.

² Both Dr. Hoberman and Dr. Graney agree that Riedel is sexually attracted to female children but not to male children. (See Gov't Exs. 3 at 102; 5 at 21.) They also agree that Riedel's pedophilia is of a non-exclusive type, which means that even though he is sexually attracted to female children, he is attracted to female adults as well. (Id.)

Additionally, there must be evidence of conduct disorder prior to age fifteen. Id. Conduct disorder involves a repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate social norms or rules are violated. Id. at 702. The specific behaviors characteristic of conduct disorder fall into one of four categories: (1) aggression to people and animals; (2) destruction of property; (3) deceitfulness or theft; or (4) serious violations of rules. Id.

The diagnoses of Dr. Hoberman and Dr. Graney regarding this personality disorder are based to a large extent on Riedel's behavior during his adolescence and at the time that he committed the sexual offenses at issue. The only evidence that the government introduced at the evidentiary hearing regarding Riedel's recent antisocial behavior relates to his participation in the Sex Offender Treatment Program ("SOTP") and the Commitment Treatment Program ("CTP") at FCI-Butner.³ Dr. Malterer testified that during his participation in the CTP in 2010, Riedel was identified as minimizing and lying about various matters, including his sexual offense history. (See also, e.g., Gov't Exs. 5 at 23; 13; 15-16.) He was also identified as being impulsive in his CTP discharge report. (Gov't Ex. 13 at 000498.)

However, while Riedel has been in federal custody, he has not received a single disciplinary infraction for misconduct, sexual or otherwise.⁴ (Resp. Ex. 1 at 33, 39, 41.) He also did not receive any disciplinary infractions while he was in state custody in Oklahoma. (Id. at

³ Although Riedel completed the SOTP, he did not complete the CTP. He withdrew from the CTP in September 2010 after participating in the program for a few months. (See Gov't Ex. 13.)

⁴ The government did introduce a prison record which showed that on 8 October 2002, a search of Riedel's locker produced "[a] reader's digest containing a story on stalking, a book on vampirism, and a national geographic with a half nude prepubescent boy" (Gov't Ex. 23.) However, Riedel did not receive any type of disciplinary infraction as a result of the search of his locker.

33.) An individual experiencing great difficulty conforming his conduct to the rules of society would likely exhibit the same pattern of bad behavior while incarcerated, but Riedel has not done so. In contrast to many inmates, his conduct while incarcerated indicates that he does not have difficulty obeying general rules, even the strict regulations of the prison environment. He has not engaged in any violent or aggressive conduct during his time in federal custody. There is no evidence that he has exposed himself to or behaved improperly toward female staff while in federal custody or been discovered engaging in any other conduct that would suggest that he has sexual urges that are difficult for him to control. In addition, Riedel has been consistently employed while in federal custody and has received positive work evaluations. (*Id.* at 41; Resp. Ex. 3.)

Thus, absent more recent⁵ and pervasive evidence of deviant behavior, it is not clear that Riedel currently suffers from antisocial personality disorder.⁶ Moreover, even if Riedel does currently have antisocial personality disorder, the government has not shown that such a disorder is sufficiently severe to constitute a “serious” mental disorder within the meaning of the Adam Walsh Act.⁷ See United States v. Wilkinson, 646 F. Supp. 2d 194, 204 (D. Mass. 2009)

⁵ A great deal of testimony was presented during the evidentiary hearing regarding the issue of whether Riedel exhibited evidence of conduct disorder prior to age fifteen. The court finds that there is sufficient evidence of conduct disorder prior to the age of fifteen, including Riedel’s own testimony that he broke into houses and stole a van prior to his fifteenth birthday. However, the existence of this evidence does not change the fact that the government has failed to prove that Riedel suffers from antisocial personality disorder at the present time.

⁶ The court also notes that the DSM-IV-TR indicates that:
Antisocial Personality Disorder has a chronic course but may become less evident or remit as the individual grows older, particularly by the fourth decade of life. Although this remission tends to be particularly evident with respect to engaging in criminal behavior, there is likely to be a decrease in the full spectrum of antisocial behaviors and substance use.

DSM-IV-TR § 301.7 at 704.

⁷ Riedel’s discharge summary from the CTP in 2010 supports this conclusion. In this report, Dr. Malterer
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(government failed to prove that respondent's antisocial personality disorder was "serious" where respondent displayed positive behavior while in federal prison, including an excellent disciplinary record, the completion of several education courses, and a consistent employment history). As a result, the court concludes that the government has failed to prove by clear and convincing evidence that Riedel suffers from antisocial personality disorder.

The court has also considered all of the other diagnoses that Riedel has been given by Dr. Hoberman. (Gov't Ex. 3 at 104-108, 110-112.) Dr. Graney has declined to offer any of these additional diagnoses. (See, e.g., Gov't Ex. 5 at 21-23.) Because the government's own experts disagree over the propriety of the additional diagnoses, the court concludes that the government has not proven by clear and convincing evidence that Riedel suffers from any of these conditions.

In summary, the court concludes that the government has proven by clear and convincing evidence that Riedel currently suffers from pedophilia and that this condition constitutes a serious mental illness, abnormality, or disorder under the Adam Walsh Act.

C. Serious Difficulty Refraining

To meet its burden of establishing that Riedel is "sexually dangerous to others," the government must also prove that Riedel, if released, "would have serious difficulty in refraining from sexually violent conduct or child molestation" as a result of his serious mental illness, abnormality, or disorder. 18 U.S.C. § 4247(a)(6). The determination under this prong requires the court to consider Riedel's volitional control over his actions understood in relation to his

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states: "Although current testing revealed . . . problems with a history of antisocial behavior and possible conduct disorder as an adolescent, the level of severity did not reach clinical significance." (Gov't Ex. 13 at 000498.)

mental illness, and it is also informed by the constitutional constraints on the civil commitment scheme. In Kansas v. Crane, 534 U.S. 407 (2002), the United States Supreme Court held that in order to civilly commit someone for sexual dangerousness “there must be proof of serious difficulty in controlling behavior.” Id. at 413. The Supreme Court noted that this standard allows courts wide discretion in relying on a number of different factors relevant to sexual dangerousness. The standard does not have “a particularly narrow or technical meaning;” nor is it demonstrable with “mathematical precision.” Id.

As a result, the court does not construe this criterion for commitment to require proof of any statistical probability of reoffense. The Adam Walsh Act does not ask the finder of fact to determine exactly how likely the respondent is to reoffend, but whether he will have “serious difficulty” in refraining from doing so. Recidivism rates are circumstantially relevant to the serious difficulty inquiry because offenders who continually expose themselves to punishment may be presumed to have the most difficulty refraining from sexual reoffending. But the ultimate question called for by the Adam Walsh Act concerns the self-control of an individual, not the statistical re-arrest patterns of a given population. Thus, the court considers the recidivism rates associated with Riedel’s actuarial scores,⁸ but affords them less weight than

⁸ Dr. Hoberman used several instruments during the course of his evaluation, including the Static-99, the Hare Psychopathy Checklist (“PCL-R”), the Minnesota Sex Offender Screening Tool-Revised (“MnSOST-R”), the Sex Offender Risk Appraisal Guide (“SORAG”), the Sexual Violence Risk-20, and the Structured Risk Assessment: Forensic Version. (See Gov’t Ex. 3 at 125-131.) He concluded that Riedel’s score on the Static-99 placed him in the high risk category, comparing him to a group of offenders who recidivated at a rate of 52% over fifteen years. (Id. at 125.) Dr. Hoberman rated Riedel on the PCL-R, giving him a prorated total score of 31 and concluding that Riedel should be regarded as a psychopath. (Id. at 111, 128-30.) He also gave Riedel a score on the MnSOST-R that is statistically associated with a high likelihood of reoffense; the recidivism rate associated with this score is 72% over six years. (Id. at 126.) He concluded that Riedel’s score on the SORAG, which predicts rearrest for a new violent offense, is statistically associated with a 58% probability of violent reoffending within seven years and a 75% probability of violent reoffending within ten years. (Id.) Dr. Hoberman further found that the other instruments he utilized provided support for the conclusion that Riedel is a sexually dangerous person.

Dr. Graney gave Riedel a score of 9 on the Static 99-R actuarial instrument, which indicates a high risk of
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Riedel's past and current conduct, and the testimony of the experts as a whole.

Here, both Dr. Hoberman and Dr. Graney testified that, in their opinions, Riedel would have serious difficulty in refraining from sexually violent conduct or child molestation if released. In contrast, Dr. Wollert opined that Riedel would not have serious difficulty in refraining from sexually violent conduct or child molestation. At the evidentiary hearing, Drs. Hoberman and Graney testified that they consider Riedel to be sexually dangerous because he has an array of deviant sexual interests, including rape, child molestation, exhibitionism, and child pornography. However, despite this range of sexually deviant interests, Riedel has not been convicted of a "hands on" sex offense in approximately twenty-four years. Riedel's more recent conduct has involved allegations of or convictions for indecent exposure and the possession of child pornography, which are non-contact, non-violent offenses. Although the court recognizes that Riedel may possess child pornography or expose himself to adults or children in the future, the possibility of such conduct is simply insufficient to commit him under the Adam Walsh Act. Pursuant to 18 U.S.C. § 4247(a)(6), the government must prove by clear and convincing evidence that Riedel "would have serious difficulty in refraining from sexually violent conduct or child molestation if released" (emphasis added). Here, the government has failed to show that Riedel's possession of child pornography⁹ or his engaging in exhibitionism

⁸(...continued)

reoffense. (Gov't Ex. 5 at 24.) She testified that offenders from a preselected high risk and needs sample with the same score as Riedel have been found to sexually reoffend at a rate of 52.4% within five years and 61.9% within ten years. (*Id.*)

Dr. Wollert used an actuarial instrument called the Multisample Age-Stratified Table of Sexual Recidivism Rates ("MATS-1") to assess Riedel's risk of recidivism. Dr. Wollert gave Riedel a score of 4+ on the MATS-1. (Resp. Ex. 1 at 64.) The eight-year recidivism rate for those with scores in the medium range on the MATS-1 who are forty-nine years old is slightly over 26%. (*Id.*)

⁹ At the evidentiary hearing, Dr. Wollert cited to a study in which it was found that child pornography
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would lead him to commit a “hands on” sex offense in the future.

Drs. Hoberman and Graney also identified several factors that they believe significantly increase Riedel’s risk of sexual reoffense, including his impulsivity and poor self-regulation; his failure to cooperate with supervision; and his commission of offenses while under supervision and in risky situations. The court agrees that Riedel has acted impulsively in the past and that he has had difficulty in complying with the provisions of his supervised release. However, the fact that Riedel previously made various poor choices, some of which have been unlawful, does not demonstrate the lack of control necessary to justify a civil commitment based on sexual dangerousness. Ultimately, Riedel’s volitional control must be “viewed in light of such features of the case as the nature of the psychiatric diagnosis, and the severity of the mental abnormality itself” in such a way that distinguishes Riedel “from the dangerous but typical recidivist convicted in an ordinary criminal case.” Crane, 534 U.S. at 413. Here, the evidence introduced by the government fails to rise to the degree necessary to distinguish Riedel from the ordinary dangerous recidivist.¹⁰

⁹(...continued)

offenders who committed a prior or concurrent contact sex offense reoffended by committing either a violent offense or a contact sexual offense at the low rate of approximately 9% over 29.7 months. See Michael C. Seto & Angela W. Eke, “The Criminal Histories and Later Offending of Child Pornography Offenders,” 17(2) Sexual Abuse: A Journal of Research and Treatment 201, 207 (2005). As previously mentioned, the court does not require proof of any statistical probability of reoffense in order to commit an individual pursuant to the Adam Walsh Act. However, this study does support the finding that it is unlikely that the possession of pornographic material would somehow fuel a future “hands-on” sex offense by Riedel.

The government attempted to discredit Dr. Wollert’s testimony with regard to this issue by pointing to a subsequent study that was also conducted by Seto. See Michael C. Seto, R. Karl Hanson & Kelly M. Babchishin, “Contact Sexual Offending by Men With Online Sexual Offenses,” 23(1) Sexual Abuse: A Journal of Research and Treatment 124 (2011). As the government brought out during Dr. Wollert’s cross-examination, the study found that 55.1% of the child pornography offenders at issue had disclosed prior sexual contact with children. Id. at 133. The court fails to see how this fact impacts the statistical results obtained in the prior study regarding the future risk of violent or contact sex offending.

¹⁰ The court also emphasizes that Riedel’s positive conduct while incarcerated supports the conclusion that
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In addition, the court finds it significant that Riedel completed the comprehensive SOTP at FCI-Butner from 2002 to 2004.¹¹ (Gov't Exs. 5 at 8-10; 19.) Treatment staff stated the following upon Riedel's completion of the program:

Upon entering the SOTP, Mr. Riedel was resistant to the therapeutic process. He minimized his role as a sexual predator, externalized blame for much of his behaviors, and dismissed feedback from others. He engaged in intimidating and aggressive behaviors, was often interpersonally aversive, and engaged in a variety of "image management" techniques. Mr. Riedel was psychologically invested in being viewed as emotionally and physically in control with little need for emotional connection to others. He evidenced ingrained criminal thinking patterns, with his first instinct being to lie or manipulate as opposed to problem solve. Mr. Riedel demonstrated little or no empathy for his victims, limited insight into his grooming patterns, and poor social skills.

Over the course of treatment, Mr. Riedel has made progress in all of these areas. While he was resistant to label himself as a sex offender, he eventually found comfort and safety in discussing his sexual deviance with other sex offenders. Repeated confrontation by treatment staff and other inmates lead [sic] Mr. Riedel to question himself and his lifelong history of dysfunctional behaviors. He allowed himself to become vulnerable and admit to deep feelings of worthlessness, inadequacies, and fear of repeated failures. He learned coping and problem solving skills which, after repeated use, gave him a sense of confidence in improving his life and managing his sexual deviance. In the last several months of treatment, Mr. Riedel has demonstrated a better understanding of his sexual deviant patterns of behaviors, his interpersonal patterns of relating to others, and the importance of communicating openly and honestly.

(Gov't Ex. 19 at 6 (emphasis added).)

Riedel also provided testimony regarding what he learned in the SOTP. He stated that while in treatment, he learned techniques for getting himself out of "high-risk" situations. He also learned how to change his thinking patterns and gained self-awareness. Thus, the court

¹⁰(...continued)

he will not have serious difficulty controlling his behavior. See discussion, supra, at 9-10.

¹¹ As previously mentioned, Riedel also voluntarily enrolled in the CTP at FCI-Butner in 2010. Although the government attempted to cast Riedel's withdrawal from the program in a negative light at the evidentiary hearing, the court finds that his withdrawal from the CTP does not taint or otherwise diminish the overall significance of his accomplishments in completing the SOTP.

finds that the treatment that Riedel has received is likely to reduce his risk of engaging in a “hands on” sex offense in the future.¹²

The court realizes that it is possible that Riedel may commit an act of sexual violence or child molestation in the future. “However, in the absence of clear and convincing proof that a serious mental impairment causes an individual to have serious difficulty in controlling his behavior, the constitution requires reliance on the criminal law, rather than a civil commitment, to deal with that risk.” Wilkinson, 646 F. Supp. 2d at 209. As the government has not presented such clear and convincing proof, Riedel may not be civilly committed.

III. CONCLUSION

For the foregoing reasons, the government has failed to show by clear and convincing evidence that Riedel suffers from a serious mental illness, abnormality, or disorder, as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released. Accordingly, the court concludes that Riedel is not a sexually dangerous person under the Adam Walsh Act and ORDERS that the government release Riedel forthwith to the custody and supervision of the appropriate United States Probation Officer. The Clerk is

¹² The court notes that Riedel’s supervised release was revoked in April 2008 for accessing the internet at work without his probation officer’s permission. Despite Riedel’s completion of the SOTP in 2004, his employer maintained that he was looking at child pornography at work at the time of the probation violation. (Gov’t Ex. 6 at 000309.) At the evidentiary hearing, Riedel admitted that he accessed the internet at work, but he denied that he was viewing child pornography. (See also Resp. Ex. 1 at 40-41.) Even if it is true that Riedel viewed child pornography at work, this would not change the court’s ultimate conclusion regarding the issue of whether Riedel would have serious difficulty in refraining from sexually violent conduct or child molestation if released.

DIRECTED to close this case.

This 13 March 2012.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge